



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

June 29, 2005

SUBJECT: **2005-0513 – Michelle Corpuz** [Applicant] **Henry S. Nigro Et Al** [Owner]: Application on an approximately 2 acre site located at **1173 W. El Camino Real** (near S. Bernardo Avenue) in a C-2/PD (Highway Business/Planned Development) Zoning District. (APN: 213-04-093)

Motion Special Development Permit to allow a fast food restaurant in an existing shopping center.

REPORT IN BRIEF

Existing Site Conditions Shopping Center

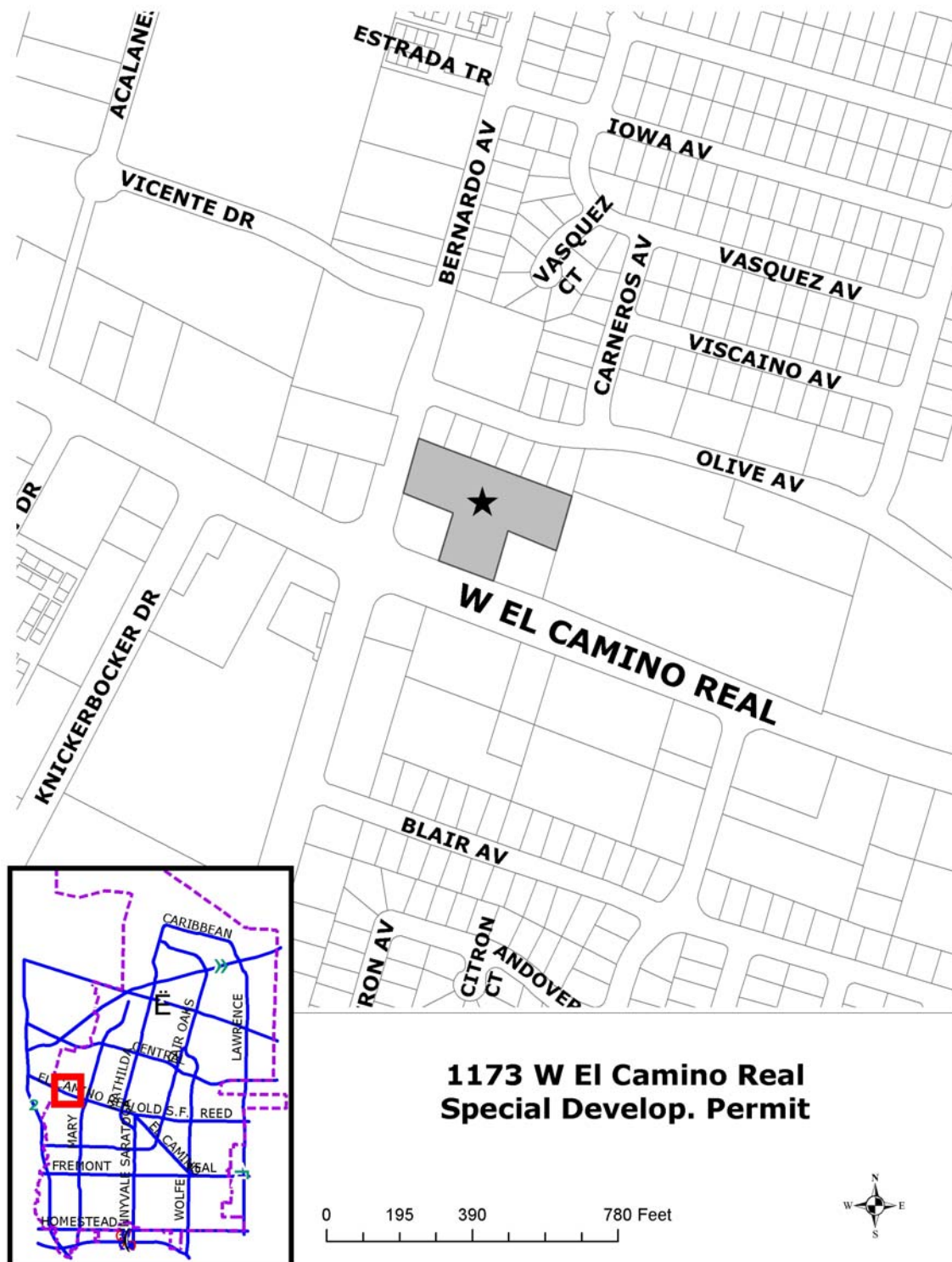
Surrounding Land Uses

North	Duplexes
South	Across El Camino Real, Strip Commercial
East	Strip Commercial
West	Commercial and Apartments

Issues Parking
Odor
Trash Enclosures

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with modifications



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Commercial General Business	Same	Commercial General Business
Zoning District	C-2/PD	Same	Same
Lot Size	2.4 acres	Same	No Min.
Gross Floor Area (s.f.)	Shopping Center 19,450 McDonalds 2,345	Same	N/A
Gross Floor Area of Tenant	N/A	1,000	
Floor Area Ratio (FAR)	28%	Same	35%max.
Parking			
• Total No. of Spaces	151	151	131 min.*
• No. of Standards	146	145	NA
• Accessible	6	Same	6 max.
• No. of Compacts / % of total	None	None	10% max.
• Landscaping (sq. ft.)	8,040	8,040	17,250

* Shopping Center 1 space/200 square feet plus Fast Food 1 space/75 square feet for McDonalds

ANALYSIS**Description of Proposed Project**

The proposed project includes a new 1,000 sq. ft. restaurant in an existing shopping center. The project will convert a vacant shoe repair tenant space to a restaurant use.

Background

Previous Actions on the Site: The original development of the site appears to have occurred prior to 1964 without the need for a Use Permit. Subsequently, the City has reviewed numerous variances, use permits, and sign programs for the subject site. The original site appears to have been an "L" shaped lot that included the shopping center (APN: 161-23-003) and McDonalds (APN: 161-23-002) that was further subdivided as part of a parcel map in 1976. Staff's review of the Final Map indicates that shared parking and ingress/egress easements are allocated to each of the parcels.

In prior applications, staff has not accounted for the McDonalds building in the project data, including parking demand and supply for the subject site. Historically, McDonalds has been treated as a separate parcel from the shopping center and it has its own on-site parking although the parcel map indicates there is likely some shared parking agreement.

The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
1964-0103	Pizza Restaurant, parking variance 8 spaces in lieu of 14	PC/Approved	1964
1964-0102	Nightclub, parking variance 33 spaces in lieu of 53	PC/Approved	1964
SDP 4355/4478	Restaurant expansion, shared parking arrangement approved	PC/Approved	1980
SDP 2002-0115	Entertainment use within existing nightclub	Admin/Approved	2002
SDP 2003-0670	Expansion of existing restaurant from 1,000 sq. ft. to 3,000 sq. ft.	Admin/Approved with modifications	2003

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. A Class 1 Categorical Exemption includes modifications to existing facilities.

Special Development Permit

Detailed Description of Use: The Bernardo Shopping Center has transitioned from a primarily retail shopping center to a heavily restaurant-oriented center. With the proposed application, the total amount of space devoted to restaurant uses in the shopping center will be increased from 38% to 43%.

The proposed restaurant use is primarily take-out, with a small amount of seating at the front of the space. Due to Building Code constraints, the restaurant cannot have more than 10 seats without providing a restroom for customers. Though the floor plan shows two restrooms, neither is available to customers (Attachment C). While most of the cooking will occur indoors, the applicant mentioned in the project description (Attachment D) a desire to have a BBQ pit/grill area at the back of the tenant space in the service area.

Site Layout: The subject tenant space is located within the strip shopping center and is served by perpendicular parking along the building that is accessed from Bernardo Avenue and El Camino Real. Service access occurs via the rear (north) of the site, adjacent to the residential uses. Previous Special Development Permit applications have required upgrades to the landscaping and parking areas.

Trash Enclosures: There have been ongoing maintenance and cleanliness issues with the trash enclosures at the subject site. Due to poor maintenance and increased demand for trash services associated with restaurants, the enclosures at the site are in a poor state of repair with excess trash stored outside the enclosures.

Parking/Circulation: With the proposed use, the Bernardo Center has over 40% restaurant. While the Sunnyvale Municipal Code states that shopping centers in excess of 20,000 sq. ft. may calculate the parking rate at a ratio of 1 space/200 sq. ft. of gross floor area, the high percentage of restaurant may indicate that the mix of uses is no longer a traditional shopping center, but a restaurant center.

The parking lot is in front of the center with access from both Bernardo Avenue and El Camino Real. Due to the configuration of El Camino Real and Bernardo Avenue, it is unlikely that parking will spillover into adjoining residential areas.

The Sunnyvale Municipal Code allows the parking calculation to be determined by each specific use in a mixed-use center when one particular use exceeds 10% of the gross floor area. The following breakdown illustrates the parking requirement for each use when calculated separately.

Tenant	Size (sq. ft.)	Use	Ratio (Space/sq. ft.)	Required Parking
Lucky Cuts	1000	Personal Service	1/180	6
Sunny Nails	1000	Personal Service	1/180	6
<i>Proposed Restaurant</i>	1000	<i>Rest. With 10 Fixed Seats</i>	<i>1/2 fixed seats + 1/400 open area</i>	<i>7 (a retail space would require 6 spaces)</i>
Madras Café	3000	Rest. Fixed seats	Per SDP	17
Hala's	1000	Restaurant no fixed seats	1/110	9
Riverside Lounge	2650	Nightclub	Per Variance	33
Noodle House	2000	Restaurant no fixed seats	1/110	19
Nilgris	3000	Grocery	1/180	17
Coin Op Laundry	1630	Personal Service	1/180	9
Dry Cleaning	1020	Personal Service	1/180	6
Gala Mart	2150	Retail	1/180	12
McDonalds	2345	Fast Food	1/75	31
TOTALS	21,795			172 (supply is 151 for a net deficiency of 21 spaces)

Compliance with Development Standards/Guidelines: Staff is concerned with the amount of restaurant in this shopping center. High concentrations of restaurant create a very high parking demand at lunch and dinner, which can often overwhelm the parking supply of a center designed primarily for retail and personal service uses spread throughout the day.

According to the parking analysis breakdown, the site becomes deficient in parking when individual parking ratios are used. However, staff notes that the difference between the proposed 1000 sq. ft. fast food use with 10 fixed seats requires only one additional space beyond what a typical personal service or retail use would require.

Expected Impact on the Surroundings: The addition of another restaurant could increase traffic and parking demand to the site. The placement of a BBQ pit at the rear of the building could create odor that would affect adjacent residential properties. Lastly, additional restaurant could create waste that exceeds the disposal capacity at the site.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 26 notices mailed to property owners and residents adjacent to the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Conclusion

Staff finds that the site cannot support increased lunchtime demand for parking due to the high percentage of restaurant. However, if the number of fixed seats were reduced such that the parking demand for the restaurant was equal to that of a retail use, staff could support the application. Staff recommends that the number of fixed seats is reduced to 8 and that no outdoor seating is permitted for this use (Condition #2A).

In addition, to address the odor and trash impacts, staff denies the BBQ use at the rear of the site (Condition #2B). This BBQ use would create noise and odor issues for the adjoining residential uses. In order to address the trash disposal problems at the site, staff is also recommending that the applicant work with the Solid Waste Division to develop a waste management plan that will adequately serve the proposed restaurant (Condition #3A).

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Special Development Permit. Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Approve the Special Development Permit with attached conditions.
2. Approve the Special Development Permit with modified conditions.
3. Deny the Special Development Permit.

Recommendation

Alternative 1.

Prepared by:

Diana O'Dell
Project Planner

Reviewed by:

Andrew Miner
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Floor Plans
- D. Letter from the Applicant

Recommended Findings - Special Development Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element Policy N1.13 – *Promote an attractive and functional commercial environment.*

Land Use and Transportation Element Policy N1.3 – *Support a full spectrum of conveniently located commercial, public and quasi-public uses that add to the positive image of the City.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. (*Finding Made*)

The project creates additional food service uses along El Camino Real. The restaurant use is in an existing shopping center and can provide services to the nearby commercial and residential neighborhoods.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties. (*Finding Made*)

Staff recommends that the seating capacity be limited to avoid parking impacts of the site. Additional conditions prohibiting outdoor cooking and requiring upgrades to the trash enclosures will ensure that the additional restaurant will not negatively affect the subject property or adjacent uses.

Recommended Conditions of Approval - Special Development Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.
- B. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- C. The Special Development Permit for the use shall expire if the use is discontinued for a period of one year or more.
- D. The Special Development Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.

2. COMMERCIAL USE

- A. A maximum number of 8 fixed seats are allowed in the restaurant. The building permit plans for the restaurant must show these seats being permanently attached to the floor. No outdoor seating is permitted.
- B. Outdoor cooking, including a BBQ, is prohibited. All cooking, food preparation, and food serving must occur inside the building.

3. RECYCLING AND SOLID WASTE

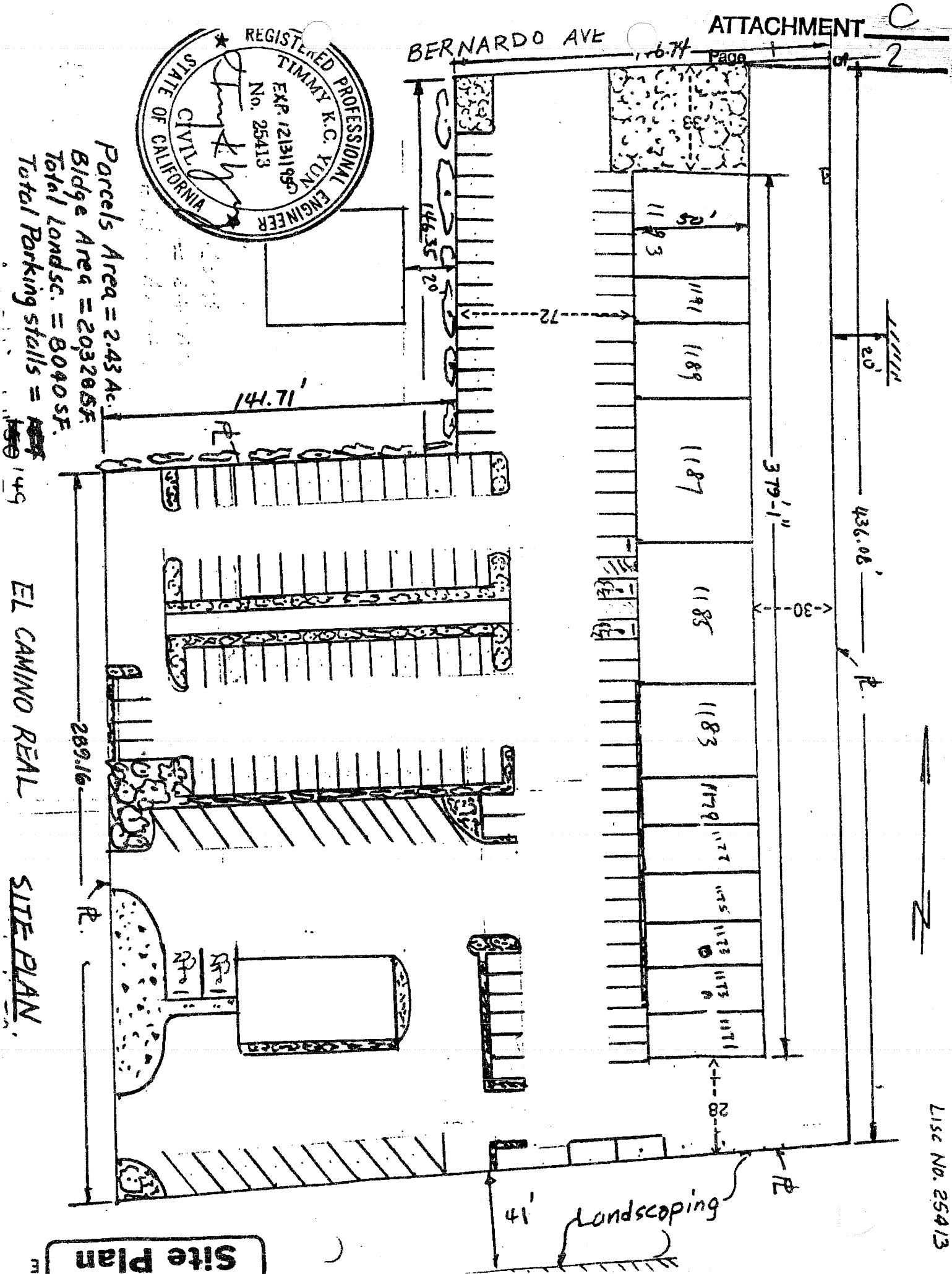
- A. Submit a detailed recycling and solid waste plan for review and approval prior to issuance of the building permit. This recycling plan may include additional trash enclosures, expansion of existing trash enclosures, and/or upgrade to the materials and construction of the existing enclosures.
- B. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.

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Site Plan

SITE PLAN



bathroom

bathroom

storage

ATTACHMENT

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water heater

freezer

freezer

steel table

hot table

drainage

Grill/Oven

fryer
fryer

refrid

refrid.

table / refrigerator

Sink

sliding refrigerator

shelves - shelves

Counter

soda fountain

table

table

table

table

table

Elmor Plan

Big Skenny's Fish and Chips Takeout

My business will specialize mainly of fish and chips. Attached is my daily menu. I will also be offering a homemade special that will be advertised daily at the location. Homemade specials examples may include *Smothered Porkchops* on Mondays, *Chicken and Broccoli Casserole* on Tuesdays, and *Gumbo* on Wednesday etc... On weekends, I'm hoping the city allows me to barbeque. Barbeque has always been a specialty of mine. My plans are to use a BBQ pit at the back of the location. All foods will be packaged in takeout containers. There will be sit down tables available inside and outside of the location. Probably with the sitting capacity of 6 - 10.

Hours of operation will be Mon.- Thurs. & Sat. 11:00 am to 9:00 pm Fri. 11:00 am - 9:30 pm and Sun. - CLOSED. The total number of employees will be from 3 - 4 during all operating hours.

This particular type of business will benefit the city to a unique style of cooking. It will also guarantee to attract a broad range of costumers. I have been in this line of business since 1999. I look forward to starting again here in the City of Sunnyvale.

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